



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 West 15th Street, Suite 3200
HELENA, MONTANA 59626

Ref: 8MO

December 13, 2007

Mr. Dan Smith, P.E.
Acting Bureau Chief
Environmental Services Bureau
Montana Dept. of Transportation
2701 Prospect Avenue, P.O. Box 202001
Helena, MT 59620-1001

Re: CEQ # 20070473; Comments on U.S. 212
Reconstruction, Rockvale to Laurel, Draft
Environmental Impact Statement

Dear Mr. Smith:

The Environmental Protection Agency (EPA) Region VIII Montana Office has reviewed the Draft Environmental Impact Statement (DEIS) for the U.S. Highway 212 Reconstruction, Rockvale to Laurel Project, in accordance with its responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309 of the Clean Air Act directs EPA to review and comment in writing on the environmental impacts of any major federal agency action. The EPA's comments include a rating of both the environmental impact of the proposed action and the adequacy of the NEPA document.

The DEIS states that analysis of traffic operations indicates that U.S. Highway 212 capacity, mobility, safety and access management cannot be addressed within the existing two lane highway, and as a result, the preferred alternative, Alternative 5B, involves construction of a four-lane highway on a new alignment closer to the Yellowstone River, while leaving the existing roadway in place. We have some environmental concerns, since this will result in significant earthmoving and increased potential for erosion and sediment production/transport both during and after construction; a larger roadway footprint; and potential adverse impacts to water quality, wetlands, vegetation, farmland, wildlife habitat and wildlife movement. However, all the other build alternatives also involve construction of a four-lane roadway on a new alignment, and would have similar potential adverse impacts. Alternative 5B appears to have slightly less impacts to wetlands than Alternative 2, Alternatives 3A and 3B, and less floodplain impacts than Alternatives 1 and Alternatives 3A and 3B. EPA also understands the need to accommodate growing traffic volume; provide mobility for goods and people; improve safety for local, regional tourist, and commercial truck traffic; and manage access for local roadways and land use.

Accordingly, EPA does not object to the preferred alternative, although we do have environmental concerns regarding the aforementioned potential impacts to water quality,



Printed on Recycled Paper

wetlands, vegetation, farmland, wildlife habitat and wildlife movement. We have particular concerns about the potential adverse impacts to wildlife movement likely to result from construction of a four-lane roadway with additional traffic lanes and higher vehicle speeds with fences along the right-of-way, all of which are likely to act as barriers to wildlife passage. The DEIS states that deer move from surrounding uplands to the Yellowstone River valley year round to forage on pastures and irrigated fields, and that filling in of ephemeral draws and replacing them with culverts is likely to disrupt wildlife movement. We are concerned that mitigation measures are not proposed to facilitate wildlife passage across the wider roadway. We believe features should be designed into the new highway, such as bridges and culverts that facilitate safe wildlife passage under the roadway to allow wildlife movement to and from the Yellowstone River riparian area.

The preferred alternative would cross Farewell Creek, an intermittent stream, and four ephemeral draws. EPA recommends that stream crossings be designed with dimensions and features that facilitate wildlife crossing. Bridges and culverts should have adequate width and capacity to allow wildlife movement, as well as pass flood flows, transport bedload, and minimize encroachment upon stream channels, riparian areas and floodplains.

It will also be important that appropriate permits and authorizations are obtained for work in and near aquatic areas (e.g., Section 318 short term turbidity exceedance authorization, 310 or 124 permits, MPDES Stormwater permits, Corps of Engineers 404 permit, etc.), and that adequate erosion control and sediment stabilization and revegetation measures are utilized. A Storm Water Pollution Prevention Plan (SWPPP) should be prepared with appropriate sediment and erosion control measures such as fiber mats, catch basins, and silt fences, and appropriate stormwater treatment systems as prescribed by the Montana DEQ. We also recommend that a summary of the Wetland Mitigation Plan providing for adequate replacement of lost wetland functions and values be included in the FEIS, perhaps as an appendix or included in the 404(b)(1) evaluation in Appendix E.

We are pleased that Alternative 4 that would have crossed the Clarks Fork Yellowstone River twice was removed from further consideration, since it had potential for substantial environmental impacts, particularly impacts to riverine and wetland ecosystems.

We are enclosing our more detailed comments, questions, and concerns regarding this DEIS for your review and consideration. Based on the procedures EPA uses to evaluate the adequacy of the information and the potential environmental impacts of the proposed action and alternatives in an EIS, the U.S. 212 Reconstruction Rockvale to Laurel DEIS has been rated as Category EC-2 (Environmental Concerns - Insufficient Information). Our environmental concerns regard impacts to wetlands and aquatic habitat, as well as impacts to wildlife and wildlife movement. Additional information is needed to fully assess and mitigate all potential impacts of the management actions. A summary of EPA's rating system is enclosed for your information.

If we may provide further explanation of our concerns please contact Mr. Steve Potts of my staff in Helena at (406) 457-5022 or in Missoula at (406) 329-3313. Thank you for your consideration.

Sincerely,

/s/ John F. Wardell
Director
Montana Office

Enclosures

cc: Larry Svoboda/Julia Johnson, EPA, 8EPA-N, Denver

EPA Comments on the Draft Environmental Impact Statement (DEIS) for the U.S. 12 Rockvale to Laurel Project

Brief Project Overview:

The Montana Dept. of Transportation (MDT) and Federal Highway Administration (FHWA) have evaluated proposed improvements for a 10.8 mile segment of U.S. Highway 212 and short segment of U.S. 310, southwest of Rockvale in Carbon and Yellowstone Counties in south central Montana. U.S. Highway 212 is a two-lane highway with narrow shoulders that is the main northeasterly route for the Red Lodge and Yellowstone Park recreational areas. The purpose of the proposed project is to accommodate growing traffic volume and provide mobility for goods and people; improve safety for local, regional tourist, and commercial truck traffic; and manage access for local roadways and land use. Analysis of traffic operations for U.S. 212 indicates that highway capacity, mobility, safety and access management cannot be addressed within the existing two lane highway.

Six build alternatives and no build were evaluated. The six build alternatives all included four-lane roadways with varied alignments. The build alternatives included the Alternative 1, Far West Bench Alternative; Alternative 2, Near West Bench Alternative; Alternatives 3A and 3B, two variations of a Near Existing Alignment Alternative; and Alternatives 5A and 5B, two variations of a Combined West Bench Alternative. An East Bench Alignment (Alternative 4) was also considered, but dropped from detailed evaluation due to the need for two river crossings and increased riverine and wetland impacts.

The preferred alternative (Alternative 5B –Combined West Bench) would involve reconstruction of US 212 to create a four-lane divided highway on a new alignment northwest and partially parallel to the current two-lane route. The junction of US 212 with US 310 in Rockvale would also be reconstructed.

Comments:

1. We appreciate the inclusion of information describing the deficiencies of the existing roadway as well as discussion of transportation demand, capacity, traffic operations, level of service, access, railroad crossing issues, accident history and safety needs in Chapter 1 of the DEIS. We also appreciate the clear presentation of alternatives, with inclusion of many figures showing median sections and the roadway footprints, maps and aerial photos showing alternative alignments, intersection alternatives in Appendix A, and tables summarizing design features and tables comparing alternatives, and the discussion of the basis for recommending the preferred alternative.

This presentation of information regarding the alternatives improves project understanding, facilitates alternatives evaluation, helps clarify issues, and helps provide a clearer basis of choice among options for the decision maker and the public in accordance with the goals of NEPA. EPA also appreciates the opportunity to review and comment

on a preliminary EIS document, and participate in a scoping meeting and field trip early in the project planning.

Alternatives

2. The preferred alternative, Alternative 5B, would result in a four-lane highway with a larger roadway footprint and a new alignment closer to the Yellowstone River, which would include much earthmoving and potential for erosion and sediment production and transport, both during and after construction, and would impact farmland, vegetation, wetlands and other wildlife habitat and wildlife movement. However, all the other build alternatives, which also involve construction of a four-lane roadway on a new alignment, and have similar adverse impacts. Alternative 5B does not appear to have higher impacts than other build alternatives. In fact, Alternative 5B appears to have slightly less impacts to wetlands than Alternative 2 and Alternatives 3A and 3B (1.5 acres vs. 2.0 to 2.5 acres of wetlands impacts), and less floodplain impacts (3.2 acres of floodplain impact with Alternative 5B vs. 8.6, 30.6 and 10.6 acres, respectively with Alternatives 1, 3A and 3B, Table 2-11). EPA also understands the need to accommodate growing traffic volume; provide mobility for goods and people; improve safety for local, regional tourist, and commercial truck traffic; and manage access for local roadways and land use.

Accordingly, EPA does not object to the preferred alternative. We do, however, have some concerns regarding potential impacts to water quality and wetlands, and impacts to wildlife habitat and wildlife passage that may result from construction of a four-lane roadway with additional traffic lanes and higher vehicle speeds with fences along the right-of-way, all of which are likely to act as barriers to wildlife passage. We are concerned that mitigation measures are not proposed to facilitate wildlife passage around the wider roadway. We believe features should be designed into bridges and culverts to facilitate wildlife movement under the roadway, particularly to allow wildlife movement to and from the Yellowstone River riparian area. We note that the DEIS states that deer move from surrounding uplands to the river valley year round to forage on pastures and irrigated fields (page 3-41), and that filling in of ephemeral draws and replacing them with culverts is likely to disrupt wildlife movement (page 4-53).

We are pleased that Alternative 4 that would have crossed the Clarks Fork Yellowstone River twice was removed from further consideration, since it had potential for substantial environmental impacts, particularly impacts to riverine and wetland ecosystems (page 2-50).

Aquatic Impacts

3. We appreciate the inclusion of Figure 3-6 (page 3-37) showing locations of water bodies in relation to the alternative roadway alignments. The preferred alternative would cross Farewell Creek, an intermittent stream, and four ephemeral draws (page 4-54). EPA recommends use of bridges or culverts with adequate width and capacity to pass flood flows and bedload transport, with minimal encroachment upon the stream channel, riparian area and floodplain; and recommends that stream crossings be designed to allow

space and include features to facilitate wildlife crossing. We also encourage use of open bottom culverts that allow natural stream bed substrate and stream grade. The DEIS indicates that Alternative 5B would involve the largest amount of earth moving and filling (page 4-77). We are concerned about the potential for erosion and sediment production and transport to occur both during and after construction, especially at bridge and culvert sites.

It will be important that appropriate permits and authorizations are obtained for work in and near aquatic areas (e.g., Section 318 short term turbidity exceedance authorization, 310 or 124 permits, MPDES Stormwater permits, Corps of Engineers 404 permit, etc.), and that adequate erosion control and sediment stabilization and revegetation measures are utilized as stated on DEIS page 4-84. A Storm Water Pollution Prevention Plan (SWPPP) should be prepared with appropriate sediment and erosion control measures such as fiber mats, catch basins, and silt fences, and appropriate stormwater treatment systems as prescribed by the Montana DEQ.

We are pleased that the DEIS acknowledges the potential for contaminated roadway runoff to enter surface and ground water (page 4-34). Roadway construction, operation, and maintenance can impact streams, wetlands and riparian areas from runoff, disruption of drainage patterns, stockpiling of materials in staging areas, maintenance of construction and maintenance equipment, application of herbicides, mowing, and snow plowing and sanding of roads or use of salt and deicers. The impacts of maintenance activities are more a matter of a long-term indirect and cumulative effects than any one incident.

The DEIS identifies four measures for management of highway runoff: vegetative controls; wet detention basins; infiltration systems; and wetlands; and indicates that vegetative controls are the best mitigation tool (page 4-35). We support use of vegetative filters and sediment traps to capture sediment before it can enter streams and wetlands, but also encourage consideration of infiltration basins or dry wells as another potentially effective way to remove contaminants from stormwater runoff. Although we note that infiltration basins or dry wells should be inspected and maintained on a regular schedule. Also, sometimes groundwater monitoring may be needed to assure that pollutant levels do not increase in ground water, particularly if there are significant amounts of contaminated highway runoff directed to infiltration beds or dry wells upgradient from public water supply wells.

We also encourage the highway agencies to train road maintenance staff regarding procedures that minimize adverse impacts of road maintenance activities on streams and wetlands (contact, Montana Local/Tribal Technical Assistance Program at Montana State University, Steven J. Jenkins, P.E, at 406-994-6100 or 1-800-541-6671). Snow plowing subsequent to sanding moves sand off the roadbed to the adjacent ditch line and fill slopes, filling depressions and ditches and widening shoulders, which can have adverse effects upon streams, wetlands, and riparian areas. These activities have the potential to introduce sediment, materials and chemicals into streams. We also encourage use of

BMPs for winter maintenance operations such as using mechanical brooms to pick up sand after thaws.

4. Thank you for identifying and discussing waterbodies listed by the Montana DEQ on the Clean Water Act 303(d) list (pages 3-23, 3-24, 4-34). As you know stream segments designated as “water quality impaired” and/or “threatened” listed on State 303(d) lists require development of a Total Maximum Daily Load (TMDL). A TMDL:

Identifies the maximum load of a pollutant (e.g., sediment, nutrient, metal) a waterbody is able to assimilate and fully support its designated uses; allocates portions of the maximum load to all sources; identifies the necessary controls that may be implemented voluntarily or through regulatory means; and describes a monitoring plan and associated corrective feedback loop to insure that uses are fully supported; or can also be viewed as, the total amount of pollutant that a water body may receive from all sources without exceeding Water Quality Standards (WQS); or may be viewed as, a reduction in pollutant loading that results in meeting WQS.

The DEIS indicates that the Clark Fork Yellowstone River is listed by the State of Montana under Section 303(d) of the Clean Water Act, and the TMDL for this waterbody is scheduled for the 2008-2012 planning cycle. It will be important that the proposed US 212 road improvement project be consistent with MDEQ’s TMDL development for the Clark Fork Yellowstone River. We encourage MDT to coordinate with the Montana DEQ TMDL Program staff to help assure such consistency (contact Mr. Robert Ray of MDEQ in Helena at 406-444-5319).

Wetland Impacts

5. We appreciate the inclusion of Figure 3-5 (page 3-33) showing wetlands and potential wetland mitigation sites along the alternative roadway alignments, along with Table 4-9 summarizing wetland impacts. We also appreciate the more detailed wetland information disclosed in the preliminary 404(b)(1) Evaluation (Appendix E).

Wetlands impact assessment should include impacts to wetlands from activities that occur outside the highway right-of-way such as from gravel mining or excavation of borrow material, stockpiling of materials in staging areas, and disposal of waste materials. It is not clear if the predicted wetland impacts identified in the DEIS include potential wetland impacts that may occur outside the right-of-way. Is there a possibility that Alternative 5B may potentially involve additional wetlands impacts from material source borrow or deposition sites due to extended construction periods and/or the need for additional borrow or deposition material? The FEIS should clarify that the impacts to wetlands include impacts from activities outside the highway right-of-way, such as excavation of borrow material and stockpiling of materials during construction.

It will be necessary for the MDT to oversee the construction contractor(s) to assure that additional impacts are minimized, and that environmentally sensitive areas are avoided when obtaining borrow or material sources and selecting construction staging areas.

How will MDT oversee contractor identification and use of material source sites and excavation/fill operations to assure that adverse impacts from such sites and operations are avoided?

6. As you know Clean Water Act Section 404 Dredge and Fill Permit rules and policies involving placement of fill material in waters of the U.S., including wetlands, require that adverse impacts to aquatic resources be avoided as much as possible, and that the “least damaging practicable alternative” to aquatic resources be permitted so long as that alternative does not have other significant adverse environmental consequences (40 CFR 230.10(a)). An alternative is considered “practicable” if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

We are pleased that the preferred alternative was located to avoid wetlands WL 18 and WL19 and minimize impacts to WL 17 (page 4-40), and that wetlands avoidance, minimization and compensation are discussed in the DEIS (pages 4-43 to 4-45), and that a preliminary 404(b)(1) Evaluation is included in Appendix E. As an additional suggested wetland impact avoidance/minimization measure, we recommend installation of fencing during construction to prevent unnecessary clearing of vegetation. We also encourage salvaging of wetland vegetation and mature shrub vegetation for use in revegetation activities.

7. As you know compensation for unavoidable impacts to wetlands should be provided by creating, enhancing and/or restoring wetland habitat of similar type and function as to what was lost, with a goal of achieving no overall net loss of wetlands values and functions. We appreciate the inclusion of Table 4-10 (page 4-44) showing potential wetland mitigation opportunities.

The goal of wetland mitigation should be to replace the functions and values of lost wetlands in areas adjacent to or as close as possible to the area of wetlands loss. EPA/Corps policy has accepted acre-for-acre replacement of wetlands as a surrogate for replacement of functions and values when there is a lack of definitive information on functions and values, although adjustments may be necessary to reflect the expected degree of success of mitigation, and provide an adequate margin of safety (i.e., greater than acre-for-acre replacement is suggested when impacted wetlands have high function & value and likelihood of replacement is low).

We generally recommend that when a preferred roadway alternative is identified in the FEIS, that a specific detailed Wetland Mitigation Plan providing for adequate replacement of lost wetland functions and values be prepared. We recommend that the Wetland Mitigation Plan contain a statement of wetland mitigation goals, a monitoring plan, long-term management/protection objectives and a commitment to conduct wetland restoration additional work, if required, to meet the goals of the Plan. This Plan will need to be approved by the appropriate agencies before implementation of the proposed project. We also recommend that at least an outline or summary of the Wetland Mitigation Plan be included in the FEIS (perhaps as an appendix).

It will be important to contact the Army Corps of Engineers and other regulatory agencies such as the U.S. Fish & Wildlife Service, and Montana DEQ to assure that proper authorizations and permits are obtained prior to incurring aquatic impacts (e.g., contact Todd Tillinger of the Corps of Engineers in Helena at 406-441-1375; Scott Jackson of the USFWS in Helena at 406-449-5225 ext.201, and Mr. Jeff Ryan of the Montana DEQ at 406-444-4626).

We also recommend consideration of a single 404 permit to cover the dredge and fill permitting for the project. This is preferred over issuance of a combination of numerous individual and nationwide permits, since it may allow for improved cumulative effects evaluation as well as to reduce paperwork and permit processing time, and assure that all necessary permits for dredge and fill activities can be obtained for the full project. Although we realize if the project is to be constructed in several segments over varying time periods it may be appropriate to permit each construction segment individually.

Wildlife Impacts

8. As noted in the prior discussion of Alternatives above, we have concerns regarding potential impacts of a four-lane highway with additional traffic lanes and higher vehicle speeds and right-of-way fencing that will all act as a barrier to wildlife movement, particularly limiting wildlife movement to and from the Yellowstone River. The preferred alternative would also cross Farewell Creek, an intermittent stream and four ephemeral draws (page 4-54). The DEIS states that mule deer move from surrounding uplands to the river valley year round to forage on pastures and irrigated fields (page 3-41, and that filling in of draws and ephemeral streams and replacing them with culverts could disrupt wildlife movement (page 4-53).

We believe the MDT should include mitigation measures that facilitate wildlife movement under the new four-lane highway with appropriate culvert and bridge culvert designs. We also support use of right-of-way barrier fencing to direct wildlife to culvert and bridge crossings, and consultation with appropriate federal and state agency wildlife biologists during highway planning and design in regard to incorporating provisions for wildlife passage into the design.

The guide, *Safe Passage: A Users Guide to Developing Effective Highway Crossings for Carnivores and Other Wildlife*, provides information on planning for wildlife connectivity, and wildlife crossings structures such as culverts, arches, open-span bridges, bridge extensions, and wildlife overpasses, as well as various types of wildlife signs. The guide was a joint effort between Southern Rockies Ecosystem Project, Wildlife Consulting Resources, and the Center for Transportation and the Environment. It may be accessed on the Web at <http://www.carnivoresafepassage.org/index.htm> or in PDF format at <http://www.carnivoresafepassage.org/carnivoresafepassage.pdf>.

9. We are pleased that the proposed project would have no effect on T&E species (Table 4-11, page 4-55).

Air quality

10. We appreciate the discussion of potential project effects on air quality (pages 4-23, 4-24), and are pleased that the DEIS indicates that the proposed project would comply with Section 176(c) of the Clean Air Act (page 4-23). It is important that exceedances of National Ambient Air Quality Standards (NAAQS) be avoided. We recommend implementation of a dust monitoring and suppression program during construction, and suggest that the construction traffic control plan include consideration of measures that minimize prolonged periods of vehicle idling during construction traffic delays as much as possible. Particular attention should be given to any areas along the corridor where people live near the highway (within 1000 feet) or where schools, hospitals, or elderly care facilities are near the roadway construction. Residents and sensitive populations may be adversely impacted now or in the future and this should be discussed or the absence of these conditions should be noted.

Hazardous Waste Sites

11. Thank you for including analysis and disclosure of potential impacts to hazardous waste sites (page 4-90 to 4-93).

Bicycle and Pedestrian Use

12. We support the proposed inclusion of 8 foot wide highway shoulders in the build alternatives to better accommodate bicyclists and pedestrians (page 4-22). For your information, the League of American Bicyclists provides recommendations regarding use of rumble strips on roads (see <http://www.bikeleague.org/programs/index.php> under Rumble Strips). This league recommends:

Non-freeway Facilities: Rural Multi-lane and Two-lane Roadways: Rumble strips should only be installed on non-freeway facilities such as rural multi-lane and two-lane roadways for which an engineering study suggests that the number of ROR crashes would likely be reduced by the installation of shoulder rumble strips. In some cases, countermeasures such as improved signing and markings, increased pavement skid resistance or other roadway improvements may be more appropriate than rumble strips or used in conjunction with them. When rumble strips are warranted and milled-in rumble strips have been selected over other rumble strip alternatives. Reducing the width and depth of rumble strips makes the rumble strip easier to cross for a bicyclist and eliminates the need for a larger offset. Where rumble strips are warranted, the following guidelines should be followed to the maximum extent practical:

a) Raised or rolled-in style rumble strips are preferable on all non-interstate roads, rather than milled-in designs. The most recent studies indicate a milled depth of 8 ± 1.5 mm ($5/16 \pm 1/16$ in) provides reasonable warning to most motorists while not being unduly dangerous to cross on a bicycle when necessary, with 8 mm ($5/16$ in) depth highly preferred.

- b) The recommended width should not exceed 300 mm (12 in) long perpendicular to the travel lane. Some states are currently using narrower strips.
- c) Most bicyclists prefer rumble strips to be installed as close to the travel lane or under the edge line as possible and no more than 100 mm (4 in) from the edge line.
- d) Rumble strips should not be continuous, but should be installed with gap spacing of not more than 14.6 m (48 ft) of rumble strip and not less than 3.2 m (12 ft) of clear space.
- e) Rumble strips should not be installed on steeper downhills on highways other than interstates.
- f) The minimum clear shoulder width recommended for a bicycle to travel is 1.5 m (5 ft). In instances where a curb may infringe on this width, the minimum shoulder width is 1.8 m (6 ft). The 1994 FHWA publication entitled, *Selecting Roadway Design Treatments to Accommodate Bicycles*, recommend 1.8-2.4 m (6-8 ft) of clear shoulders for most bicyclists on busy rural roads. The need for rumble strips where guardrails are present is questioned. A Caltrans study specifically states that where bicyclists are permitted, "shoulder rumble strips should not be used unless a minimum of 1.5 m (5 ft) of clear shoulder width for bicycle use is available between the rumble strip and the outer edge of the shoulder." Summary, a minimum of 1.5 m (5 ft) clear shoulder space must remain outside the rumble strip at all times, with a wider clear space provided on roads with 2.4 m (8 ft) shoulders.

Indirect Effects and Land Use

13. We appreciate the discussion of the indirect effects of proposed improvements to US 212 (pages 4-11 to 4-20), but believe highway improvements are a more important factor influencing the rate and pattern of land use development and conversion of open space to residential and commercial land uses than is suggested in the DEIS. Reduced travel time promoted by highway improvements could increase the potential for commuters to commute to Billings, which could facilitate conversion of land to residential uses in the area, with associated additional commercial development. While we acknowledge that the rate and pattern of growth and land use changes are influenced by many factors and cannot be predicted with great reliability, we believe improved transportation is a key factor, and that the DEIS may be underestimating the extent to which improvements to US 212 may influence the rate and pattern of future growth and land use development.

We encourage the highway and local governments to consider mitigation measures for induced or facilitated growth and related effects such as access controls and context sensitive designs, such as zoning controls and land use planning, transfer of development rights, growth management regulation, resource management and preservation regulation, land acquisition and conservation easements; and development fees and exactions.

Environmental Justice

14. Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” requires that Federal agencies make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations. The Executive Order makes clear that its provisions apply fully to Native Americans. We are pleased that the analysis and disclosure of environmental justice effects (pages 4-20, 4-21) indicates that the proposed project would not result in disproportionately high or adverse effects to minority or low income populations, and that all residents including minorities and low income populations would benefit from reduced congestion and improved safety on US 212.

Weed Management

15. We are pleased that the DEIS discusses noxious weed infestation risks and control actions (pages 3-39 to 3-40, 4-52), and that MDT would seed disturbed areas with desirable plant species as soon as practicable as recommended by the MDT Botanist. EPA supports control of noxious weeds, which are a great threat to biodiversity, and can out-compete native plants and produce a monoculture that has little or no plant species diversity or benefit to wildlife. Noxious weeds tend to gain a foothold where there are ground disturbances such as construction.

We support minimization of disturbance to existing native vegetation and rapid revegetation of disturbed areas (reseed with native grass mix). We encourage development of pre-construction weed management plans that include provisions for temporary or erosion control seed mix during construction as well as provisions for post-construction revegetation of disturbed areas. Where no native, rapid cover seed source exists, we recommend using a grass mixture that does not include aggressive grasses such as smooth brome, thereby allowing native species to eventually prevail.

EPA also encourages prioritization of weed control techniques that focus on non-chemical treatments first, with use of chemicals (herbicides) as a last resort. If herbicide applications are needed they should be carried out by licensed applicators and in accordance with manufacturers recommendations. It is important that herbicides be applied by certified herbicide applicators, who understand water contamination concerns. Herbicide drift into streams and wetlands could adversely affect aquatic life and wetland functions such as food chain support and habitat for wetland species. All efforts need to be made to avoid movement or transport of herbicides into surface waters that could adversely affect fisheries or other water uses during weed control treatments (i.e., use mitigation measures avoid herbicide drift to streams and wetlands during treatments).

SUMMARY PARAGRAPH FORM

ERP NUMBER

RATING ASSIGNED TO PROJECT

EC-2

**NAME OF EPA OFFICIAL RESPONSIBLE
FOR REVIEW OF PROJECT (Principle Reviewer)**

Stephen Potts

SUMMARY OF COMMENT LETTER

The EPA has reviewed the U.S. 212 Reconstruction Rockvale to Laurel, Draft Environmental Impact Statement (DEIS) prepared by the Federal Highway Administration and Montana Department of Transportation. The EPA expressed environmental concerns regarding impacts to water quality, wetlands, farmland, wildlife habitat and wildlife movement. EPA recommended that features be designed into the new highway, such as bridges and culverts that facilitate safe wildlife passage under the roadway to allow wildlife movement to and from the Yellowstone River riparian area. Additional information is needed to fully assess and mitigate all potential impacts of the management actions.

PARAGRAPH APPROVED FOR PUBLICATION

**(Initials of OFA
Approving Official)**

NOTE: Transmit 2 copies to MIU

8MO File: 0015